

U.S. TRADE POLICY AND DEVELOPING COUNTRIES: FREE TRADE AGREEMENTS, TRADE PREFERENCES, AND THE DOHA ROUND

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Introduction

The U.S. Congress approved the free trade agreement (FTA) with Peru in November, but still faces decisions on several other initiatives affecting trade with developing countries. These include pending FTAs with Colombia, Panama, and Korea, as well as proposals to renew four preferential trade programs that are scheduled to expire in 2008. The authorization for the Andean Trade Preferences Act (ATPA) runs out at the end of February, as will the authority for the Caribbean Basin Initiative (CBI) and the African Growth and Opportunities Act (AGOA) at the end of September, while the Generalized System of Preferences (GSP) expires at the end of the year. Another pending initiative in Congress would extend duty-free, quota free treatment to the least-developed countries (LDCs).

The most important initiative affecting U.S. trade with developing countries is the Doha Round in the World Trade Organization (WTO), but it is not yet certain if or when those negotiations will finally produce agreements. Whether that happens within the remaining months of the Bush administration or after the 2008 U.S. presidential election, the decisions that Congress makes on the pending issues in the coming months offer valuable insight into how decisions are made on trade issues.

This note examines the implications of these initiatives for U.S. trade relations with developing countries. What is at issue here is not a simple question of whether Congress will approve or reject initiatives to maintain or expand developing countries' preferential access to the U.S. market, and thus provide a positive or negative signal regarding the future of any agreements that may be reached in the Doha Round. A closer look reveals that the main points of contention concern the place of trade preferences in U.S. trade strategy. And while the outcome of these debates will certainly have implications for Doha, they entail more than a straightforward indication of whether Congress appears to be leaning for or against free trade.

Partisanship, Preferences, and TPA

Before turning to the specific initiatives that are under consideration in the 110th Congress (2007-2008), it is important first to understand the political environment for U.S. trade policy. That is an environment that is often misunderstood by those who view it from afar.

The politics and procedures of U.S. trade policy are frequently reduced to simple but misleading axioms. The three most common claims are that (1) the legislative branch is more protectionist than the executive, and (2) Democrats are more protectionist than Republicans, but (3) Trade Promotion Authority (TPA) manages to overcome these problems by limiting the role of Congress to yes-or-no choices over the agreements that presidents submit for approval.

These simple statements are wrong both in broad principle and in detail. To begin with, portraying trade politics as a black-or-white choice between free trade and protectionism is an antiquated view that does not adequately capture the real picture. While commercial issues remain important, especially for legislators from districts that produce import-sensitive or export-dependent items, many of the key players in both branches of government are at least as interested in how they can leverage trade in order to pursue objectives in other areas of public policy. They nevertheless differ on two points. The first concerns the appropriate ends of policy, with some policymakers (especially in the executive branch) favoring the use of trade policy as a tool of foreign policy, and others (Democrats) preferring to link trade policy to labor and environmental issues. Policymakers also differ over the best means of achieving these ends; Republicans in both branches favor FTAs over unilateral preferences, while the reverse is true for congressional Democrats.

Trade policy thus involves a more nuanced set of choices than the aforementioned axioms would suggest. Moreover, the TPA rules do not prevent legislators — and especially not the majority party — from bargaining with the executive.

The main differences in the two parties' approaches can be understood first by reviewing the voting patterns of rank-and-file members, and then by exploring the preferences of their respective leaderships. The record shows that there are more similarities than one might expect in how Democrats and Republicans vote, at least on some issues, but that the strategic perceptions of their leaders are strikingly different. Those differences underlay the current disputes over the pending initiatives on preferential programs and FTAs.

Differences Between Party Rank-and-File

Two important distinctions qualify the common perception that Democrats are protectionists and Republicans are free-traders. One is that there is almost no party discipline in the United States, where individual legislators are free to decide how they will vote. The other is that few trade-related issues come down to stark choices between opening or closing the market. Decisions depend not only on party, but also on how the issue affects key industries in the legislators' constituency, the implications for other areas of public policy, and the balance of power between the executive and legislative branches. The net result is that Republicans do in fact favor market-opening initiatives more often than Democrats, but the degree of difference varies both by issue and by legislator.

This point is clear from the data in Table 1, which summarize the main trade policy votes that have been cast in the House of Representatives since 1979.¹ A simple average of these 25 votes shows that Republicans take a pro-trade position more often (86.7%) than Democrats (50.6%). A more complex pattern emerges when one breaks those votes down into specific categories. Republicans almost always provide around 85-95% support, but the level of Democratic support varies according to the nature of the proposal.

Democrats' support tends to be lowest, and hence partisanship tends to be highest, in votes involving grants of negotiating authority to the president. The reasons for this relate both to a higher predilection for trade liberalization among

Republicans as well as a greater interest on the Democrats' part in preserving the prerogatives of the legislative branch (where they have historically had an advantage).² The second-highest degree of partisan difference is in votes involving FTAs with developing countries outside the Middle East. That difference can be attributed to the interests of labor unions (a key constituency for the Democrats), for whom competition with low-wage countries is anathema. Conversely, partisanship tends to be much lower for votes involving multilateral trade liberalization or FTAs with industrialized countries. Voting patterns in this last category are about one-tenth as partisan as votes on grants of negotiating authority.

The votes of Democrats are also swayed by whether an initiative was developed by, or at least in close consultation with, leaders of their own party. This is partly a matter of presidential leadership: There is a higher level of support for trade agreements among Democrats in Congress when one of their own holds the White House (56.0%) than when the president is a Republican (48.5%). Republicans are markedly more supportive of their own presidents (90.3%) than of Democrats (77.6%). The net result is that partisan differences are nearly twice as high during Republican administrations than they are when the president is a Democrat.

The level of Democratic support also varies according to how the White House manages its relationship with Congress. Republicans in the two branches felt little need to accommodate the minority party during 2001-2006, and the level of Democratic support was commensurately low. Now that the administration is obliged to deal with the majority Democrats, the types of deals that they strike attract higher levels of rank-and-file support. For two illustrations of that point, consider matched pairs of votes. In the recent vote to approve the Peru FTA, 48.4% of Democrats voted "aye"; that compares to just 7.4% voting for the last non-Middle Eastern FTA that came before the Republican-controlled Congress (CAFTA-DR in 2006). The same pattern is apparent when one contrasts the two

¹ Note that voting patterns are roughly similar in the Senate, but the data for the House can be considered more statistically valid because there are more legislators in that chamber (435) than there are in the Senate (100).

² Democrats had majorities in one or both houses of Congress for 46 out of the 60 years between 1947 and 2007, whereas Republicans held the presidency for 38 of those years.

Table 1: Selected Votes on Trade in the House of Representatives, 1979-2007

Percentages Taking the Pro-Trade Position (i.e., Voting for Market-Opening Initiatives or Against Market-Closing Initiatives); Categories Listed in Order of Partisanship

Year	Issue	Dems. (A)	Reps. (B)	(B)–(A)
Average for Multilateral & Industrialized Country Agreements		79.2	86.2	7.0
2005	Reject withdrawal of the United States from the WTO	76.9	82.6	5.7
2004	Approve U.S.-Australia FTA implementing bill	58.0	89.2	31.2
2000	Reject withdrawal of the United States from the WTO	89.2	84.7	-4.5
1994	Approve Uruguay Round agreements implementing bill	65.2	68.4	3.2
1988	Approve U.S.-Canada FTA implementing bill	87.8	93.8	6.0
1979	Approve Tokyo Round agreements implementing bill	98.0	98.7	0.7
Average for Developing Country FTAs in the Middle East		57.5	93.5	36.0
2006	Approve U.S.-Oman FTA implementing bill	11.1	87.7	76.6
2005	Approve U.S.-Bahrain FTA implementing bill	58.7	94.2	35.5
2004	Approve U.S.-Morocco FTA implementing bill	60.0	91.9	31.9
1985	Approve U.S.-Israel FTA implementing bill	100.0	100.0	0.0
Average for Developing Country Preferences		47.3	86.0	38.7
2007	Approve Andean Trade Preferences Act renewal bill	82.5	90.3	7.8
2001	Recommit Andean Trade Preferences Act renewal	27.2	91.1	63.9
2000	Approve preferences for Africa and Caribbean Basin	61.8	85.9	24.1
1997	Expand preferences under the Caribbean Basin Initiative	23.5	62.1	38.6
1984	Remove Asian newly industrialized economies from GSP	36.3	91.0	54.7
1983	Approve Caribbean Basin Economic Recovery Act	56.0	90.1	34.1
1982	Approve Caribbean Basin Economic Recovery Act	43.6	91.5	47.9
Average for Developing Country FTAs Outside the Middle East		33.9	86.2	52.3
2007	Approve U.S.-Peru FTA implementing bill	48.4	91.7	43.2
2005	Approve CAFTA-DR implementing bill	7.4	88.2	80.8
2003	Approve U.S.-Chile FTA implementing bill	36.9	87.8	50.9
2003	Approve U.S.-Singapore FTA implementing bill	37.1	87.9	50.8
1993	Approve NAFTA implementing bill	39.5	75.4	35.9
Average for Grants of New Negotiating Authority		19.8	81.5	61.7
2001	Approve bill to grant trade promotion authority	10.0	89.4	79.4
1998	Approve extension of fast-track authority	14.5	68.0	53.5
1991	Deny extension of fast-track authority	34.9	87.0	52.1
Average for All 25 Votes		50.6	86.7	36.2
Average for 7 Votes During Democratic Administrations		56.0	77.6	21.6
Average for 18 Votes During Republican Administrations		48.5	90.3	41.8

Three types of votes are excluded from the table. First, it does not include votes dealing with single products or sectors (e.g., sugar or steel). Votes on those measures tend to be determined more by the economic composition of a legislator's constituency than by party. Second, it leaves out bills that deal with trade sanctions or related matters (e.g., the extension of MFN treatment to China). Third, it does not include votes on omnibus trade bills from 1974, 1984, and 1984 that contained so wide a range of issues that one cannot be certain how the package was seen by a legislator. While the 2001 vote to approve a bill granting TPA was also an omnibus bill that included other measures, the other items in it attracted far less attention than was the case for the three other bills. The timeframe chosen here begins in 1979 because that was the first use of the fast-track procedure for the approval of a major trade agreement.

Source: Calculated from votes reported in the Congressional Quarterly Almanac (various) and the House of Representatives website.

most recent votes on Andean trade preferences. Whereas there was almost no difference in the levels of Republican votes, Democrats were far more likely to favor the ATPA-renewal deal brokered by their leaders in 2007 (supported by 82.5%) than the one developed unilaterally by Republicans in 2001 (supported by 27.2%).

Differences Between Party Leaders

Leaders in both parties tend to see FTAs as a replacement for preferential trade programs, but draw completely different conclusions from that point. Whereas Republicans generally favor FTAs for their permanence, broad coverage, and reciprocal nature, Democrats see numerous advantages in retaining the existing programs and slowing the pace of FTA negotiations.

Although nearly all pro-trade measures receive similar levels of support from Republicans, that apparent equanimity hides a strong preference among Republican leaders for a transition out of one-way, autonomous preferential programs, to be replaced instead by reciprocal preferences through FTAs. This view was championed in the 109th Congress (2005-2006) by the Republican chairmen of the two trade committees. Then-Chairman Charles Grassley (Republican-Iowa) of the Senate Finance Committee strongly advocated the removal of countries such as Brazil and India from the GSP, arguing that they should not continue to enjoy these benefits while opposing the U.S. position in the Doha Round, and then-Chairman Bill Thomas (Republican-California) of the Ways and Means Committee concurred. Grassley and Thomas both favored FTAs instead. Republicans lost their chairmanships on both committees after the 2006 elections, and Representative Thomas retired from Congress altogether, but the minority Republicans continue to put FTAs before preferential programs.

For Democratic leaders, preferential programs have at least three advantages over FTAs. In each instance, these advantages speak to fundamental differences between the parties. First, preferential programs can be more readily accommodated to those Democrats (and some Republicans) who demand protection: It is easier to exclude sensitive products altogether from an autonomous program, or to ensure that the rules of origin favor U.S. suppliers, than is the case for an FTA. Second, some preferential programs favor regions that have close ties to the constituencies of many Democratic lawmakers, including Americans of African,

Hispanic, and Caribbean descent. The third difference relates to the greater propensity of Democrats to link trade preferences with labor rights, environmental protection, and other conditions. While the benefits can be used as leverage, FTAs are intended to be permanent and unconditional, and are thus unusable as leverage over the long term.

Foreign Policy Linkages

This is not to say that FTAs offer no prospect for linkage. They clearly do, but it is a “one-time-only” opportunity. After an FTA has gone into effect, the United States has very limited scope for using trade as leverage with that partner. Despite that limitation, the Bush administration has been especially prolific — some might say profligate — in its dispensation of FTAs to countries that are deemed to support certain goals of U.S. foreign policy.

The rapid upsurge in FTAs can be appreciated from the data reported in Table 2, which show that the number of FTA partners has risen from three at the time Bush took office to 14 today (or 17 when the agreements with Costa Rica, Oman, and Peru enter into effect). Negotiations were also initiated with another eleven countries, three of which were concluded before the expiration of the most recent grant of TPA.

One notable characteristic of the partners with which the Bush administration has chosen to negotiate, apart from Korea and Malaysia, is the miniscule share of trade that they cover. For each one of these negotiations, the bilateral trade relationship looms much larger in the economy of the partner than it does for the United States. To take just one example, consider the U.S.-Colombian trade relationship. In 2006, Colombia accounted for 0.5% of U.S. imports and 0.7% of U.S. exports; conversely, the United States accounted for 26.6% of Colombia's imports and 40.8% of its exports. And while trade with *all* partners was equivalent to 21.0% of U.S. GDP, trade with the United States alone was equal to 12.4% of Colombia's GDP.³ These asymmetries suggest a fundamental difference in perceptions: Whereas an FTA has a high, intrinsic value for countries such as Colombia, one must look to extrinsic motivations in order to explain the U.S. interests in FTAs with small partners.

³ Calculations based on data from WITS, the World Bank, and the U.S. International Trade Commission.

Table 2: Share of FTA Partners and Candidates in Total U.S. Imports, 1990-2007

Percentages of All U.S. Imports for Consumption, Customs Value; 2007 Shares Based on January-August Data; Agreements Listed in Chronological Order of Entry into Force

	1990	1995	2000	2001	2002	2003	2004	2005	2006	2007
Israel	0.67	0.77	1.07	1.06	1.08	1.02	0.99	1.01	1.04	1.08
Canada	18.56	19.59	19.00	19.14	18.23	17.92	17.51	17.30	16.42	16.30
Mexico	6.01	8.34	11.18	11.52	11.61	10.98	10.61	10.18	10.68	10.80
Jordan	0.00	0.00	0.01	0.02	0.04	0.05	0.07	0.08	0.08	0.07
Singapore	1.99	2.50	1.59	1.32	1.22	1.14	1.02	0.91	0.96	1.01
Chile	0.24	0.25	0.27	0.29	0.31	0.32	0.34	0.41	0.52	0.50
Australia	0.88	0.44	0.52	0.56	0.55	0.52	0.52	0.44	0.45	0.46
Morocco	0.02	0.03	0.04	0.04	0.04	0.03	0.04	0.03	0.03	0.03
Bahrain	0.02	0.02	0.03	0.04	0.03	0.03	0.03	0.03	0.03	0.04
Honduras	0.10	0.19	0.26	0.28	0.28	0.26	0.25	0.23	0.20	0.21
Guatemala	0.16	0.20	0.22	0.23	0.24	0.24	0.22	0.19	0.17	0.16
El Salvador	0.05	0.11	0.16	0.17	0.17	0.16	0.14	0.12	0.10	0.11
Nicaragua	0.00	0.03	0.05	0.05	0.06	0.06	0.07	0.07	0.08	0.08
Dominican Rep.	0.35	0.46	0.36	0.37	0.36	0.36	0.31	0.28	0.25	0.22
Colombia	0.64	0.51	0.55	0.50	0.47	0.51	0.50	0.53	0.50	0.46
Peru	0.15	0.13	0.16	0.16	0.17	0.19	0.25	0.31	0.32	0.26
Panama	0.05	0.04	0.02	0.03	0.03	0.02	0.02	0.02	0.02	0.02
Korea	3.73	3.25	3.30	3.08	3.06	2.95	3.09	2.60	2.42	2.44
Costa Rica*	0.20	0.25	0.29	0.26	0.27	0.27	0.23	0.20	0.21	0.21
Oman*	0.06	0.04	0.02	0.04	0.03	0.05	0.03	0.03	0.04	0.03
South. African C.U.**	0.37	0.32	0.37	0.42	0.41	0.45	0.47	0.41	0.46	0.51
Ecuador**	0.28	0.26	0.19	0.17	0.18	0.22	0.29	0.35	0.38	0.31
Thailand**	1.07	1.53	1.35	1.30	1.28	1.21	1.20	1.19	1.21	1.17
United Arab Ems.**	0.18	0.06	0.08	0.10	0.08	0.09	0.08	0.08	0.07	0.06
Malaysia**	1.06	2.35	2.11	1.96	2.07	2.03	1.92	2.03	1.98	1.69
FTA Partners	19.23	28.7	31.25	31.74	30.96	29.97	30.54	30.33	30.76	31.07
FTA Candidates	0.00	0.00	0.01	1.61	3.55	4.78	4.65	4.07	7.86	7.16
Partners+Cands.	19.23	28.70	31.26	33.35	34.51	34.75	35.19	34.40	38.62	38.23
Rest of World	80.77	71.30	68.74	66.65	65.49	65.25	64.81	65.60	61.38	61.77

"FTA Partners" includes all agreements that have entered into force.

"FTA Candidates" includes all agreements for which formal negotiations have begun or been completed but have not yet entered into force.

** : FTA candidates with which negotiations were concluded, and U.S. approval procedures were completed, but have not yet entered into force pending action in the partner country.*

*** : FTA candidates with which negotiations were initiated but have been suspended.*

Source: Calculated from U.S. International Trade Commission data. Totals may not add precisely due to rounding.

Nearly all of the FTA negotiations initiated since 9/11 can be traced to a narrow set of foreign policy goals.⁴ Most of these partners play a supporting role in U.S. policy in the Middle East, having been either a member of the “Coalition of the Willing” in Iraq (i.e., countries that contributed troops or other material support)⁵ or being majority Arab or Muslim countries that cooperate with the United States.⁶ Other foreign policy objectives are served by negotiating with countries that supply oil, cooperate in anti-narcotics efforts, or agreed in the Doha Round to leave the Group of 21.⁷ The only post-9/11 FTA negotiations that cannot be attributed to one or more of these foreign policy goals were the abortive talks started with the Southern African Customs Union.

Foreign policy arguments do have some appeal for Democrats, as demonstrated by their clear (if diminishing) preference for FTAs with Middle Eastern countries.⁸ In general, however, these links are unpopular both with the trade-skeptical Democrats who would prefer that there be no FTAs at all and with the smaller group of pro-trade Democrats who urge that negotiations target commercially significant economies. Chairman Max Baucus (D-Montana) of the Senate Finance Committee falls in the latter category, having frequently criticized the link between trade and foreign policy while also urging that FTAs be reached with large partners such as Japan, India, and Taiwan.

Environmental and Labor Policy Linkages

If Democrats are uneasy with the ties between trade and foreign policy, they show no reluctance to link trade with environmental and

labor goals. This is a policy that was first adopted in the 1980s, when Democrats insisted that labor rights be included among the “designation requirements” (i.e., conditions) imposed on preferential programs such as the GSP and the CBI. That precedent was then picked up when the North American FTA (NAFTA) was negotiated in 1991-1992. In every FTA since then, Democrats have sought progressively stricter provisions that require a partner to enforce standards in these areas.

It can sometimes be difficult to tell whether a given Democratic legislator sees this issue in sincere or cynical terms. For some lawmakers, FTAs are the best means to bring pressure on partners, and their decision to vote for or against a given agreement will depend heavily on the extent to which the “blue and green” topics have been addressed. For others, these issues offer a convenient excuse to vote against an agreement without appearing to be a protectionist. Either way, Democrats have succeeded in ensuring that FTAs incorporate ever more concrete provisions in these areas.

Prior to the 2006 congressional elections, the Bush administration felt little pressure to make accommodations with Democrats on these issues. Winning Democratic votes was desirable, but by no means essential. With the change in party control, however, Democrats have enough votes to ensure that (TPA rules notwithstanding) they can defeat any FTAs that do not meet their standards. They could either refuse to cooperate in the process of translating those agreements into implementing legislation or, if that does not deliver the message, cast enough “no” votes to defeat the bills that the president introduces. The administration therefore felt compelled to negotiate over the terms of the agreements, ultimately reaching a deal on 10 May 2007. Under the terms of this bipartisan and inter-branch bargain, the labor and environmental provisions of the four pending FTAs were changed to (among other things) provide that violation of certain standards, as established in an International Labor Organization declaration and in multilateral environmental agreements, would be subject to the same dispute-settlement provisions as are other commitments in an FTA. It is highly doubtful that the U.S.-Peru FTA would have been approved by Congress without those adjustments.

⁴ This description does not apply to the FTAs that the Bush administration inherited from its predecessor (i.e., with Chile, Jordan, and Singapore).

⁵ Members of this coalition include Australia, Colombia, Korea, Panama, Thailand, and every CAFTA-DR country other than Guatemala.

⁶ These include Bahrain, Malaysia, Morocco, Oman, and the United Arab Emirates.

⁷ This group dates from the WTO Cancún Ministerial (2003), and opposed a U.S. agricultural deal with the European Union.

⁸ Many Democrats supported the agreements with Jordan (2001), Morocco (2004), and Bahrain (2005), but conflicts over labor provisions led most of them to oppose the Oman agreement in 2006.

How TPA Preserves Congressional Power

That renegotiation of the FTAs begs the question, what about the “no-amendment” rules of the TPA? The experience with these agreements is only the latest episode to prove one simple point: The TPA rules affect the ways that members of Congress exert pressure on the administration, but the legislative branch retains substantial authority in the making of trade policy.

There are several ways that legislators can seek to influence the results of a trade negotiation. Before the talks even begin, they can set conditions on the extension of TPA. Once those negotiations are underway, they can threaten to defeat any agreement that (for example) makes some concession that is unpopular in Congress. And even after the agreement has been completed, they have multiple opportunities to force changes in an agreement.

One post-negotiation method is to make strong objections to specific provisions during the period between the conclusion of the talks and the formal signing of the agreement. This has led in some instances to reopening of the negotiations. Another opportunity comes when the implementing legislation is drafted. While this is supposedly the president’s bill, it is in fact developed in consultations between the administration and members of the congressional trade committees. Legislators have used this process to engage in creative interpretations of an agreement’s provisions, or to insert items that were not a part of the negotiation. Even after the implementing legislation has been drafted and introduced, there is nothing to prevent legislators from engaging in “log-rolling” bargains in which they threaten to vote against an agreement unless some demand of theirs is granted. That demand might relate either to the relationship with the FTA partner in question, or to some entirely different matter (e.g., a pork-barrel project).

There have been three phases in the actual use of TPA, with radically differing levels of congressional interference in the results of negotiations. The first period was 1979 through 1994, bracketed by the first and the most recent uses of fast track to approve multilateral trade agreements (i.e., the Tokyo and Uruguay rounds). For several of the trade agreements approved during this period, legislators used the methods described above to make substantive

changes in what presidents had negotiated. The fight over NAFTA approval in 1993 offered the most blatant example, in which legislators forced the U.S. and Mexican negotiators to sign numerous side letters that changed the deals reached on sugar, orange juice, and many other products. The tinkering with the results of the Tokyo and Uruguay round negotiations was not nearly as obvious, but there were some adjustments at the margins.⁹

The second period lasted during the first six years of the Bush administration, which is the only time that the no-amendment rule has been more or less faithfully followed. Apart from some side issues,¹⁰ none of the FTAs that the Bush administration submitted during these years were substantively altered in response to demands from Congress. To the extent that Democrats were unhappy with some agreements, that was expressed through narrow and partisan margins of victory rather than changes in the agreements themselves.

The 2006 congressional elections inaugurated the third period, forcing the Bush administration to take an entirely different approach towards FTAs and the Democrats. The result, as manifested in the aforementioned 10 May 2007 agreement, offers the clearest example to date of how legislators can get around the TPA’s no-amendment rule. It is true that the Bush administration could have chosen not to renegotiate these deals, and it is equally true that the four FTA partners could have insisted upon *pacta sunt servanda*. Such principled stands, however, would probably have resulted in defeat for these FTAs.

What Will Congress Approve?

The 10 May 2007 agreement was a necessary but not sufficient condition for the approval of the pending FTAs. It was essential for the Peruvian FTA, and the Panamanian agreement is widely expected to pass as well, but the prospects are cloudier for the Colombian and Korean agreements. It is also uncertain how

⁹ These episodes are chronicled in Craig VanGrasstek, “Is the Fast Track Really Necessary?” *Journal of World Trade* Volume 31 Number 2 (April, 1997).

¹⁰ For example, legislators forced the Bush administration (as well as its foreign counterparts) to undo bargains in the Chile and Singapore FTAs that dealt with visas for business persons.

Congress will deal with the proposals to renew or expand preferential trade programs for developing countries.

Status of the Pending FTAs

The sequencing and timing of the remaining three agreements are a matter of dispute. Whereas the Democrats in Congress would prefer that the Panamanian agreement be taken up next, the Bush administration appears more interested in advancing the Colombian pact. The agreement with Korea seems to be in last place. Each of these FTAs present unique problems, only one of which is trade-related in the traditional meaning of that term.

Most congressional Democrats want the U.S.-Panama FTA to be the next in line for three reasons. First, the labor and environmental issues are less controversial for this agreement. Second, the prospects for participation in the building of a new canal offer an especially strong allure. Third, a strong bipartisan vote for this FTA could help to reinforce the Democrats' message that they are not anti-trade.

The politics of the Panamanian agreement have nevertheless been complicated by a diplomatic dispute. The State Department is trying to put pressure on Panama's government to dismiss Pedro Miguel González Pinzón as president of the National Assembly. He is currently under indictment in U.S. District Court for the murder on June 10, 1992 of a U.S. Army sergeant and the attempted murder of another U.S. serviceman. The sergeant was killed when the two men's military vehicle was ambushed outside of Panama City following the arrest and conviction in the United States of former President Manuel Noriega. González Pinzón stood trial and was acquitted by a Panamanian court, but the United States criticized the judicial process. Nor is the administration alone in tying the FTA to this matter: In addition to congressional Republicans, Senator Hillary Clinton has insisted that the FTA should not be brought up until the issue is resolved.

Democrats take a much more negative view of the FTA with Colombia, this time for reasons of labor and human rights. Citing the recent history of violence against union leaders in that country, the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) has taken a strong stand against the agreement. Many Democrats in Congress back them up on that

position. Unless there is some additional step taken by Colombia and/or the Bush administration to make the case for the FTA, there is a good chance that this FTA could be the first one ever defeated by Congress. That assumes that the Bush administration would force the matter by submitting implementing legislation to Congress. That currently appears to be the intention, which could set up a contentious debate over approval.

The U.S.-Korea FTA is, for the time being, the last one in line. It is also the only one of these latest FTAs to be treated in more or less traditional terms, with much more attention being paid to mundane commercial concerns than to political and diplomatic matters. Several legislators are unhappy with the balance of commitments in this agreement, and there may be efforts made to extract further concessions from Seoul (e.g., in the automotive area). It is also possible that this agreement will get caught up in electoral politics, with Senator Clinton having come out against it. No matter what ultimately happens to this FTA, however, there is at least some comfort in knowing that a trade agreement can still be about trade.

Bills to Expand or Renew Preferences

While the FTAs have the highest profile among the trade issues now under consideration in Congress, they are not the only ones. Congress will also deal with several programs affecting the terms of developing countries' access to the U.S. market, as it takes up four preferential trade programs that are scheduled to expire (in whole or in part) during 2008, and may also consider proposals to extend duty-free, quota-free (DFQF) treatment to the LDCs.

The debates over renewal and expansion of trade preferences will, like the FTA debates discussed above, deal with a mix of political and commercial issues. On the one hand, high politics work their way into some of these programs. Should the United States renew preferences for the Andean countries, including one (Colombia) that might soon be rejected as an FTA partner, and two others (Bolivia and Ecuador) that are perceived to be aligning themselves with an unfriendly regime (Venezuela)? And should preferences be extended even to those LDCs that are among the worst violators of human rights? There may be considerable disagreement over questions

Table 3: Tariff Treatment of U.S. Imports from Industrialized and Developing Countries, 2006

Imports for Consumption (Customs Value), in Millions of Dollars and Percentages

	World	Industrialized Countries	Middle-Income Countries	Least-Developed Countries
Total U.S. Imports	1,845,053.2	809,422.1	1,012,387.5	23,243.6
MFN Dutiable	555,298.9	241,897.7	307,706.5	5,694.8
MFN Duty-Free	892,147.5	404,474.9	486,241.9	1,430.7
FTAs	305,453.1	163,049.5	142,403.6	0.0
Preferences	92,131.4	0.0	76,013.2	16,118.1
Share of Group Total	100.0	100.0	100.0	100.0
MFN Dutiable	30.1	29.9	30.4	24.5
MFN Duty-Free	48.4	50.0	48.0	6.2
FTAs	16.6	20.1	14.1	0.0
Preferences	5.0	0.0	7.5	69.3
Average Tariffs				
MFN Dutiable Imports	4.5	2.9	5.6	15.3
All Imports	1.4	0.9	1.7	3.8
Share of U.S. Imports	100.0	43.9	54.9	1.3

Industrialized countries = Members of the Organization for Economic Cooperation and Development minus Korea, Mexico, and Turkey.

Middle-Income Countries = All countries not counted as either industrialized or least developed.

Least Developed Countries = The 50 countries that are so designated by the United Nations.

Totals may not add precisely due to rounding.

Source: Calculated from U.S. International Trade Commission data.

such as these when congressional Democrats, Republicans, and the Bush administration turn their attention to these initiatives. The ATPA and DFQF initiatives may be especially difficult, but the GSP and CBI renewals will also require some attention and political capital.

On the other hand, traditional commercial issues will also arise. As can be seen from the data in Table 3, the existing preferential trade programs do not offer treatment to developing countries that is more preferential than that enjoyed by industrialized countries. To the contrary, there is a perversely inverse relationship between income and average tariff rates: The average tariff imposed on dutiable imports from the industrialized countries is 2.9%, compared to 5.6% for the middle-income countries and 15.3% for the LDCs. Moreover, the share of imports that is dutiable is roughly the same across all three categories, ranging between 24.5 and 30.4%. The main difference comes in the way products are exempted from duty: About half of imports from the

industrialized countries are duty-free on an MFN basis, while two-thirds of imports from the LDCs enter under preferential programs.

The treatment of apparel products is an especially significant commercial issue. This is where the main peaks are found: The average U.S. tariff on all apparel imports in 2006 was 11.8%; the average tariff on non-preferential apparel imports was 15.3%. And while the United States has steadily expanded the scope of preferential trade programs over the past two decades, including the extension of preferential treatment to apparel products, those programs are principally designed to promote adjustment in the U.S. textile and apparel industry. Legislators from textile-producing districts encourage strict rules of origin in both preferential programs and in FTAs in order to manage trade and encourage the incorporation of U.S. inputs in the final products. That policy has led to significant increases in imports of apparel produced in regions where co-production with the United States is easily

achieved, especially in the Americas and Sub-Saharan Africa. Preferences for the Asian LDCs are more problematic, due to the fact that they source little of their fabric in the United States. These countries are outside the scope of the African and Caribbean programs, and thus do not yet have a path to DFQF-like treatment.

The Bush administration is prepared to grant DFQF to most imports (97% of all tariff lines) from most of the LDCs, but will do so only in the context of the Doha Round. That is a position challenged by the congressional sponsors of a “New Partnership for Development Act” (H.R.3905). The bill would grant permanent duty-free access to imports of all products, including textiles and apparel, from nearly all LDCs. Only Sudan and Burma (Myanmar) would be excluded. While the bill is supported by importers and retailers of apparel and footwear, it has drawn strong opposition from manufacturers of these products. There is no indication yet as to whether or when this bill will be taken up in Congress.

Implications for Doha and Beyond

What do the issues discussed above portend for the Doha Round? While it is impossible to predict how any agreement will be received before we know its final terms, there are four general conclusions that we may reach regarding the way that Congress might deal with the results of the multilateral negotiations.

First, it is a mistake to assume that all Democrats are protectionists and that they will likely oppose these agreements. Many of them, if not necessarily a majority, are willing to vote for trade agreements when their concerns are addressed. In the case of FTAs, that has largely meant dealing with labor and environmental issues. Labor is off the table in the Doha Round, and environmental issues are a minor part of the negotiation, but that may not matter — at least not in the present round. The voting records reviewed above show that Democratic support for the results of the Tokyo and Uruguay rounds was indistinguishable from that of Republicans. It is reasonable to expect that the Doha Round agreements will be easier to approve than the politically contentious FTAs.

Second, it is important to understand how TPA actually works. This special set of rules does provide important procedural assurances,

especially the promise that the implementing legislation for an agreement cannot be blocked indefinitely, but it does not offer an iron-clad guarantee against efforts to influence the outcome of a negotiation. There is a good chance that legislators will seek to influence the final agreement by, for example, warning in the end-game that they would defeat any package that includes some specific U.S. concession. We have already seen such warnings with respect to deals on cotton and the trade-remedy laws. There is also the chance that the implementing legislation might include some creative interpretations of the agreements, especially if negotiators fall back on the common practice of deliberate ambiguity. These are matters that will merit close attention in the coming months.

Third, it is worth considering the implications if Congress should reject the Colombian and/or the Korean FTAs. Many analysts would no doubt see a very negative sign for the Doha Round itself, and to some degree that might be a justifiable interpretation. Nevertheless, a cynic might argue that this is a development that will simply work to the benefit of the U.S. negotiators in Geneva. Employing the classic “good cop, bad cop” threat that they have used effectively for generations, these negotiators could argue to their counterparts that (1) this proves that Congress is indeed prepared to reject any deals that it perceives to be bad, and (2) the countries should therefore make more accommodations to the U.S. position.

Fourth, the outcome of the presidential and congressional elections in 2008 will obviously be important. What is not so obvious, however, is what the ideal outcome of those elections would be from the standpoint of the multilateral trading system. It is widely expected that Democrats will retain their congressional majorities in those elections, but that the outcome of the presidential election is more difficult to predict. The evidence reviewed above implies that a Democratic president might be better positioned to deal with a Democratic Congress than would a Republican president. While that Democrat might be much less interested in negotiating any new FTAs, he or (more likely) she might be in a marginally better position to secure approval of the Doha Round results.